



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.:PAra13101559

[REDACTED],

Complainant,

v.

M&M STUMP AND TREE
WILLIAM MOHR,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On October 28, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against M&M Stump and Tree, William Mohr ("Respondent") alleging discrimination on the basis of race in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether Complainant was denied service because of his race. In order to prevail on such a claim, Complainant must prove that 1) he is a member of a protected class; 2) Respondent offers its services to the public; 3) Complainant tried to access Respondent's services without success; and 4) Respondent treated similarly-situated patrons of another race more favorably under similar circumstances.

It is evident that Complainant is a member of a protected class by virtue of his race, African-American, and that Respondent offers its services to the public. There is also evidence showing that Complainant tried to access Respondent's services and that Respondent refused to provide services for Complainant. Lastly, there is evidence that Respondent treated a similarly-situated patron of another race more favorably under similar circumstances.



By way of background, Respondent advertised its tree trimming services in the September 26, 2013 edition of an Allen County newspaper. At all times relevant to the Complaint, the advertisement clearly provided that Respondent provided “free estimates” and “tree work” throughout “Allen County.” On or about September 27, 2014, Complainant called Respondent to inquire about its services and left a message. Shortly thereafter, Respondent returned Complainant’s phone call, stated that he did not work in the “inner city” of Fort Wayne, and would not be able to provide services. Evidence shows that Complainant called Respondent again, but was unable to reach the Respondent. However, Respondent returned Complainant’s call and left another voicemail indicating that he had the right to refuse to service an area and at the end of the message, stated “have a nice day, n****r.” Several days later, after listening to Complainant’s voicemail, Complainant’s Caucasian neighbor called Respondent who visited his home without issue and provided an estimate.

Despite Respondent’s assertions, there is sufficient evidence to believe that a discriminatory practice occurred as alleged. Specifically, evidence shows that Respondent refused to provide services to Complainant while providing such services without issue to his Caucasian neighbor who lives on an adjoining property. Moreover, Respondent left a message for Complainant in which he referred to him by a racial slur. As such and based upon the aforementioned, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission’s Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

October 16, 2014
Date

Akia A. Haynes
Akia A. Haynes, Esq.
Deputy Director
Indiana Civil Rights Commission